S.B.CIVIL WRIT PETITION NO.7287/2006

Surya Prakash
v.
Asstt.Registrar, Cooperative Societies, Bhilwara and others.

Date of Order :: 15th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ramandeep Singh, for the petitioner.

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The nomination paper submitted by the petitioner to participate in the elections for Hurda Gram Sewa Sahkari Samiti Ltd. has been rejected by the election officer on the count that the petitioner suffered an order under Section 74 of the Rajasthan Cooperative Societies Act, 1965 (hereinafter referred to as "the Act of 1965") and as such is not eligible to contest the elections as per provisions of Section 28(6) of the Rajasthan Cooperative Societies Act, 2001 (hereinafter referred to as "the Act of 2001").

While giving challenge to the decision aforesaid it is contended by counsel for the petitioner that by an order dated 2.7.1997 the Assistant Registrar, Cooperative Societies, Bhilwara ordered for effecting recovery of a sum of Rs.30,000/- from the petitioner while exercising powers under

Section 74(2) of the Act of 1965 and that came to be stayed under an order dated 2.12.2006 passed by the Cooperative Minister, as such there is no impediment in contesting the election by the petitioner.

By the order dated 2.7.1997 an order was passed to effect recovery from the petitioner for a sum of Rs.30,000/- with interest @ 18% w.e.f. 28.12.1994. The Minister for the Department of Cooperatives by an order dated 2.12.2006 deferred the order dated 2.7.1997 subject to the condition that the petitioner deposits a sum of Rs.24,000/-. It is pertinent to note that the total dues against the petitioner is not of only Rs.30,000/- but is Rs.30,000/- with interest @ 18% and that is required to be computed w.e.f. 18.12.1994. The Minister by order dated 2.12.2006 deferred recovery subject to condition of deposition of the sum of Rs.24,000/- in pursuant to the order dated 2.7.1997. Such deferring of the order dated 2.7.1997 does not mean as if no recovery under Section 74 of the Act of 1965 is due against the petitioner. As a matter of fact the Minister has deferred recovery of the due amount but has not stayed the operation and all effects of the order dated 2.7.1997. The petitioner for all purposes is facing a recovery under Section 74 of the Act of 1965, therefore, the election officer rightly rejected his nomination as per Section 28(6) of the Act of 2001.

The writ petition, therefore, is having no merit and the same is dismissed.

(GOVIND MATHUR),J.

kkm/ps.